

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: : Chapter 7
:
SILVIA NUER, : Case No. 08-14106 (REG)
:
Debtor. :
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**APPLICATION FOR AUTHORITY TO RETAIN
THE LAW OFFICES OF LINDA M. TIRELLI, ESQ.
AS SPECIAL COUNSEL TO THE TRUSTEE**

TO: THE HONORABLE ROBERT E. GERBER,
UNITED STATES BANKRUPTCY JUDGE

The Application of David R. Kittay, trustee (the “Trustee”), for the bankruptcy estate of Silvia Nuer (the “Debtor”), by his undersigned counsel Kittay & Gershfeld, P.C., respectfully sets forth and alleges as follows:

1. David R. Kittay is the duly qualified and acting Chapter 7 Trustee in this case.
2. By way of this Application, the Trustee seeks the entry of an Order, pursuant to Section 327 of Title 11 of the United States Code (the “Bankruptcy Code”) and Federal Rule of Bankruptcy Procedure 2014, authorizing the retention and employment of the Law Offices of Linda M. Tirelli, Esq. (“Tirelli”) as special counsel in the above-captioned estate, retroactive to November 24, 2008.
3. The Debtor filed her bankruptcy petition on October 10, 2008 (the “Filing Date”) under Chapter 7 of the Bankruptcy Code. Prior to the Filing Date, Tirelli was retained by the Debtor, to represent her regarding her dire financial situation which was attributed to a sequence of events regarding the purchase of a condominium, as more fully provided for in the affidavit of Linda M. Tirelli sworn to on

November 24, 2008 and attached hereto.

4. Tirelli is fully versed in the facts and circumstances underlying the claims, and is, therefore, qualified to represent the Trustee as special counsel.
5. It is necessary for the Trustee to employ Tirelli for and to continue with such professional services pursuant to Section 327(e) of the Bankruptcy Code.
6. Upon information and belief, Tirelli does not hold or represent any interest adverse to the Debtor or her estate. Tirelli has no connection with the creditors or any other party in interest or their attorneys and is a disinterested person who may be employed pursuant to Section 327(e) of the Bankruptcy Code.
7. Upon information and belief, Tirelli is a “disinterested person” within the meaning of Sections 327(a) and 101(14) of the Bankruptcy Code as set forth in the *Affidavit in Support of Application for Retention of the Law Offices of Linda M. Tirelli, LLP as Special Counsel to the Trustee* annexed hereto.
8. The Debtor did not enter into a retention agreement with the Debtor regarding the claims that the Trustee now seeks to retain Tirelli to pursue. The Debtor and Tirelli had discussed that if the Debtor had retained Tirelli to pursue the claims, Tirelli would be paid on a contingency fee arrangement pursuant to which Tirelli would be paid 33 1/3% of the gross recovery, plus reimbursement of out-of-pocket expenses. The Trustee believes such payment to be fair and seeks to retain Tirelli under such terms.
9. Tirelli has advised the Trustee that based on the timing, it was necessary that work to protect the estate needed to commence immediately. Accordingly, the Trustee

agreed to seek Tirelli's retention to effective as of the date her services began,
November 24, 2008.

10. Tirelli has agreed to submit a written status report to the Trustee every six months – one on May 1st and the other on October 1st.
11. On November 24, 2008, I reviewed the Certificate of Good Standing that indicated that Linda M. Tirelli is currently admitted to practice law in the Southern District of New York.
12. Based upon the foregoing, the Trustee submits that the retention of Tirelli is in the best interest of the Debtor, her estate and creditors.
13. No previous application for the relief requested herein has been made to this or any other Court.

WHEREFORE, the Trustee respectfully requests that this Court issue an Order authorizing him, as Trustee, to employ and retain Tirelli to represent him, as the Trustee in this estate, as special counsel, effective as of November 24, 2008, as set forth herein and awarding such other and further relief as this Court may deem just and proper.

Dated: Tarrytown, New York
December 1, 2008

KITTAY & GERSHFELD, P.C.
Attorneys for the Trustee

/s/ Michelle Gershfeld
Michelle Gershfeld
100 White Plains Road
Tarrytown, New York 10591
(914) 332-8000

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**ORDER AUTHORIZING RETENTION OF
THE LAW OFFICES OF LINDA M. TIRELLI, ESQ. AS SPECIAL
COUNSEL FOR THE TRUSTEE RETROACTIVE TO NOVEMBER 24, 2008**

Upon the annexed application (“Application”) of David R. Kittay, trustee (the “Trustee”) of the bankruptcy estate of the above-captioned Debtor, by his undersigned counsel Kittay & Gershfeld, P.C., dated December 1, 2008, for an Order pursuant to Section 327 of Title 11 of the United States Code (the “Bankruptcy Code”) and Federal Rule of Bankruptcy Procedure 2014 approving the retention and employment of the Law Offices of Linda M. Tirelli, Esq. (“Tirelli”), as special counsel to the Trustee, retroactive to November 24, 2008; and upon the *Affidavit in Support of Application for Retention of the Law Offices of Linda M. Tirelli, Esq. as Special Counsel to the Trustee* (the “Tirelli Affidavit”), sworn to on the 24th day of November, 2008; and it appearing that Tirelli is a disinterested person (as that term is defined in Section 101(14) of the Bankruptcy Code) and represents no interest adverse to the Debtor or the estate in the matters upon which Tirelli will be engaged; and since said employment is necessary and would be in the best interests of the creditors and the estate; and sufficient cause appearing therefore; it is

ORDERED, that the Trustee be, and he hereby is authorized to retain Tirelli as special counsel to the Trustee, under the terms and conditions set forth in the Application of David R. Kittay, Trustee, and the Tirelli Affidavit, pursuant to Sections 327(e) and 328 of the Bankruptcy

Code; and it is further

ORDERED, that Tirelli provide the Trustee with a written status report every six months – one on May 1st and the other on October 1st; and it is further

ORDERED, that Tirelli be, and is hereby, authorized to seek compensation and reimbursement of expenses from the Debtor's Chapter 7 estate for payment of professional services rendered and expenses incurred by Tirelli, as special counsel, which compensation shall be subject to review and determination by this Court upon proper application pursuant to Sections 330 and 331 of the Bankruptcy Code; and it is further

ORDERED, that the costs, disbursements and expenses as incurred by Tirelli in any actions (e.g., court fees, stenographers fees, photocopying and any and all other disbursements, costs and expenses incurred) will be paid by Tirelli until said costs, disbursements and expenses are approved by this Court.

Dated: New York, New York
December __, 2008

UNITED STATES BANKRUPTCY JUDGE

NO OBJECTION:

OFFICE OF THE U.S. TRUSTEE

By: /s/ Marylou Martin

Dated: December 5, 2008